IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

WP(C).No. 30485 of 2003(D)

PETITIONER:

KITTAN KESAVAN @ V.K. KESAVAN,
MALIKAKKAL, WARD NO.6, MANNANCHERRY P.O.,
ALAPPUZHA DISTRICT, PIN -688 538.

BY ADV. SRI.K.K.SATHEESH.

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO THE GOVERNMENT, GENERAL ADMINISTRATION (FFP.A) DEPARTMENT, GOVT. SECRETARIAT, THIRUVANANTHAPURAM.**

2. **DISTRICT COLLECTOR, ALAPPUZHA.**

BY GOVERNMENT PLEADER SRI. K.V. MANOJ.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.30485/2003:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE AFFIDAVIT SUBMITTED BY THE PETITIONER DULY ATTESTED BY THE REVENUE DIVISIONAL OFFICER & SUB DIVISIONAL MAGISTRATE, ALLEPPEY DTD. 20/05/1981.

EXT.P.2: COPY OF THE PKC ISSUED BY SRI. P.K. CHANDRANANDAN M.L.A., AMBALAPUZHA DT. 19/05/81.

EXT.P.3: COPY OF THE NARC ISSUED BY THE CHIEF JUDICIAL MAGISTRATE, ALLEPPEY.

EXT.P.4: COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER FOR STATE PENSION DT. 19/07/1999.

EXT.P.5: COPY OF THE COMMUNICATION NO. 44752/FFP.B3/02/GAD DT. 30/01/2003 ISSUED BY THE R.1. TO THE PETITIONER.

EXT.P.6: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DTD. 03/09/2003.

EXT.P.7: COPY OF THE ORDER NO. 119/PVS/104/99-FF (SZ) DT. 18/06/2003 ISSUED BY THE UNDER SECY. TO THE GOVT. OF INDIA, MINISTRY OF HOME AFFAIRS, NEW DELHI.

EXT.P.8: COPY OF THE PKC ISSUED BY SRI. H.K. CHAKRAPANI DTD. 16/07/2003.

RESPONDENT'S EXHIBITS: **NIL.**

//TRUE COPY//

prv.

T.R.RAMACHANDAN NAIR,J.

W.P.(C)NO.30485 of 2003

Dated this the 8th day of August, 2007

JUDGMENT

The petitioner herein is an applicant for pension under the Kerala Freedom Fighters Pension Rules. The application filed by the petitioner is in the year 1981 which is evidenced by Ext.P1 affidavit dated 20.5.1981. The above application was supported by Ext.P2 certificate issued by Sri.P.K.Chandranandan MLA. It has been clearly stated that he was a freedom fighter and had participated in the Punnapra-Vayalar struggle 1946 and he had gone underground with the certifier for a period of 18 months from 7.3.1122 to 6.9.1123 in Case No.P.E.7/1122. Ext.P3 is the Non-availability of Records Certificate obtained by the petitioner from the Chief Judicial Magistrate, Alappuzha. He filed another application Ext.P4 and had produced Personal Knowledge Certificate issued by Sri.H.K.Chakrapani.

2. By Ext.P5, he was informed that the application submitted by the petitioner is rejected as the certificate issued by Sri.H.K.Chakrapani was not acceptable. It was pointed out that the certifier had not obtained central pension.

3. Sri.H.K.Chakrapani was granted Central pension (S.S.S.P.) as per proceedings dated 18.6.2003. The above mentioned order has been produced in this case as Ext.P7. Therefore, the petitioner filed Ext.P6 representation producing copy of Ext.P7 and also a fresh Personal Knowledge Certificate (Ext.P8) issued by Sri.H.K.Chakrapani. It is at that stage the petitioner approached this Court seeking for an appropriate direction to grant the pension under the Kerala Freedom Fighters Pension Rules. The respondents have filed a counter affidavit. It is pointed out therein that the representation received from the petitioner had been forwarded to the District Collector, Alappuzha for report and the report of the District Collector is received on 5.1.2004. It is also stated in the counter that the petitioner has not rectified all the defects pointed out by Ext.P5 government letter, which does not appear to be correct. What was pointed out in Ext.P5 was regarding the non-production of the order granting Central pension to the certifier. The other reason stated is that in the Personal Knowledge Certificate issued by Chakrapani, the number of the case in which he was an accused has not been mentioned. A reading of Ext.P8 shows that, therein, the period of imprisonment of Sri.H.K.Chakrapani has been specifically stated therein. The period during which the petitioner remained underground has been shown as 7.3.1122 ME to 6.9.1123

ME. It is also stated that the case number relating to the petitioner is PE 7/1122 ME. As these details have been specifically made available, the contention raised in the counter affidavit that the petitioner has not cured the defects pointed out in Ext.P5 is not correct. It is, therefore, clear that the respondents have not approached the issue in the right perspective.

4. The learned counsel for the petitioner points out that in similar circumstances, as per judgment in W.P.(C)NO.26694/2003 dated 10.7.2006, there was a direction to the Government to reconsider the application of the petitioner therein as he had cured all the defects. The certifier therein was also H.K.Chakrapani and the petitioner therein had produced the jail record of H.K.Chakrapani and the order sanctioning central pension to H.K.Chakrapani. This Court directed the Government to reconsider the claim of the petitioner therein in accordance with law. It is pointed out that the petitioner therein Mr.P.K.Chellappan was sanctioned pension by the State Government as per proceedings No.63819/FFD B3/05/Gen.Admn. dated 13.10.2006.

5. In the light of the above judgment and the order passed by the Government, therefore the petitioner is also entitled for a similar treatment. Even though in Ext.P5, there is no direction to produce the

jail record of H.K.Chakrapani, the learned counsel for the petitioner submitted that the same will also be produced by the petitioner before the first respondent.

Therefore, there will be a direction to the first respondent to reconsider the claim of the petitioner, in accordance with law, on its merits, within a period of six weeks from the date of production of a copy of the judgment.

The writ petition is disposed of as above.

T.R.RAMACHANDRAN NAIR
JUDGE

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